

## **REMARKS**

In the Office Action issued April 8, 2009, claims 1-7 were rejected under 35 U.S.C. § 101 as failing to be statutory subject matter. Claims 1-9, 11, and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,393,139 to Lin *et al.* (“Lin”) in view of U.S. Patent No. 4,210,899 to Swonger (“Swonger”) and in view of U.S. Patent Application Publication No. 20030026462 to Chung *et al.* (“Chung”). Claim 10 was also rejected under § 103(a) as being upatentable over Lin, Swonger, Chung and further in view of U.S. Patent No. 5,864,296 to Upton (“Upton”). Claim 12 was rejected under § 103(a) as being unpatentable over Lin, Swonger, and further in view of U.S. Patent No. 5,594,806 to Colbert (“Colbert”). Claims 14-17 were rejected under § 103(a) as being unpatentable over Lin in view of Chung.

Claims 1, 2 and 5-17, as amended, are pending in this application. In this Response, Applicant has amended claims 1, 2 and 5-17 and cancelled claim 4. In light of the Office Action, Applicant believes these amendments serve a useful clarification purpose, independent of patentability. Accordingly, Applicant respectfully submits that the claim amendments do not limit the range of any permissible equivalents.

In particular, independent claims 1 and 14 have been amended to clarify that a sequence of data sets is randomly changed after each authentication of the user and authentication of the sequence of data sets is based on whether they are obtained within a predetermined period of time of one another and the correct sequence. As now new matter has been added by the amendments herein, Applicants respectfully request entry of these amendments at this time.

## **THE REJECTION UNDER 35 U.S.C. § 101**

Claims 1-7 were rejected under 35 U.S.C. § 101 as failing to be statutory subject matter. The Applicant traverses this rejection. Prior to the amendment, claim 1 recited a

statutory process that was tied to components of an apparatus or machine. These components include a database and a contact sensor. The Applicant has amended claim 1 to also recite that the method is a computer-implemented method. Claim 7 also recites additional components including a processor, a database and fingerprinting sensor. The Applicant respectfully request that the rejection to claims 1-7 under 35 U.S.C. § 101 be withdrawn.

**THE REJECTION UNDER 35 U.S.C. § 103(a)**

Claims 1-9, 11, and 13 were rejected under 35 U.S.C. § 103(a) as being obvious over Lin, Swonger and Chung. As conceded by the Examiner, Lin is silent with regard to the amount of time that an apparatus allows for a user to verify the user's fingerprints and fingerprint entering sequence. Lin also fails to disclose that the fingerprint entering sequence is randomly changed after each authentication of the user. Swonger, Chung, Upton, nor Colbert cures the deficiency of Lin with respect to the fingerprint entering sequence being randomly changed after each authentication of the user. Accordingly, claims 1 is not unpatentable over the combination of Lin, Swonger and Chung.

Therefore, claims 2, 5-9, 11 and 13, which depend from claim 1, are not unpatentable over the combination of Lin, Swonger and Chung for at least the reasons discussed with respect to claim 1.

Claim 14 was rejected under 35 U.S.C. § 103(a) as being obvious over Lin and Chung. Claim 14 recites limitations similar to claim 1 and thus is not unpatentable over the combination of Lin and Chung for at least the reasons discussed with respect to claim 1.

Therefore claims 15-17, which depend from claim 14, are not unpatentable over the combination of Lin and Chung for at least the reasons discussed with respect to claims 1 and 14.

Claim 10 was also rejected under § 103(a) as being unpatentable over Lin, Swonger, Chung and further in view of Upton. As discussed with respect to claim 1, Upton does not cure the deficiency of Lin, Swonger and Chung with respect to the fingerprint entering sequence being randomly changed after each authentication of the user. Accordingly, claim 10 is not unpatentable over the combination of Lin, Swonger, Chung and Upton.

As such, reconsideration and allowance of the pending claims is respectfully requested.

**CONCLUSION**

All claims are believed to be in condition for allowance. Applicant invites the Examiner to contact the undersigned attorneys to discuss any issues pertaining to the patentability of the pending claims. A Petition for Extension of Time is submitted herewith extending the period for response three months to and including October 8, 2009. No other fees are believed to be due at this time. Should any other fees be required, however, please charge such fee to Hanify & King, P.C. Deposit Account No. 50-4545, Order No. 5231-094-US01.

Respectfully Submitted,

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